



**ZONING ADMINISTRATOR
NOTICE OF DECISION**

Date: November 5, 2012
Applicant: Rio Mar LLC
Case No.: ZAV-11-04
Address: 249 Del Mar Avenue
Project Planner: Caroline Young

Notice is hereby given that on November 5, 2012, the Zoning Administrator considered Variance (ZAV) application (ZAV-09-07), filed by Rio Mar LLC, Inc. ("Applicant"). The Applicant requests ZAV approval to allow a reduction in the exterior side yard setback requirement from 25-ft. per the Chula Vista Building Line Map to 10-ft. along Davidson Street. The Project is located at 249 Del Mar Avenue ("Project Site") and is owned by Rio Mar LLC ("Property Owner"). The Project Site is zoned Apartment Residential (R3P22) with a General Plan designation of Residential Medium High (RMH). The Project is more specifically described as follows:

The Project consists of the construction of a (3) multi-family units with associated parking and landscaping. The existing single-family home and detached garage will be removed from the site. The Variance approval will allow a reduction in the exterior side yard setback requirement from 25-ft. per the Chula Vista Building Line Map to 10-ft. along Davidson Street. Previously the City acquired a 25-ft. dedication along Davidson Street to widen the street within a two block area along Davidson Street. After the dedication, the lot had a 50-ft lot width. With the minimum 25-ft. exterior side yard setback requirement per the Chula Vista Line Map, only 25-ft. of the property was left to be developed. Due to the site constraints, a Variance is requested.

Planning staff has reviewed the Project for compliance with the California Environmental Quality Act (CEQA) and has determined that the Project qualifies for a categorical exemption pursuant to Section 15332 of the State CEQA Guidelines. Thus, no further environmental review is necessary.

The Zoning Administrator, under the provisions of Section 19.14.030.B of the Chula Vista Municipal Code, has conditionally approved said request based upon the following findings of facts as required by CVMC Section 19.14.190:

That a hardship peculiar to the property and not created by any act of the owner exists.

The site has a constraint on the property with the exterior side yard setback requirement of 25-ft. per the Chula Vista Building Line Map. In 1953, the City widened the street, leaving a 50-ft lot width. Furthermore, in 1975, the City required a 25-ft exterior side yard setback for the north side of Davidson Street, per the approval of the Chula Vista Building Line Map. The 25-ft

setback takes away half of the developable lot area making the site difficult to build three units. The hardship peculiar to the property was not created by any act of the owner, but rather actions by the City that further constrained the development of the site. Pursuant to City regulations, no buildings or structures can be placed within a setback area. Due to the site constraints, a Variance is requested. The Variance will allow for the construction of three (3) multi-family units with associated parking and landscaping.

That such a variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning districts and in the same vicinity, and that a variance, if granted would not constitute a special privilege of the recipient not enjoyed by his neighbors.

The Project will allow the Applicant to build three (3) units and associated amenities similar to other property owners in vicinity of the projects with similar R3 zoning. The majority of other properties within residential zones throughout the City are only restricted to a minimum 10-ft exterior side yard setback.

That the authorizing of such variance will not be of substantial detriment to the adjacent property and will not materially impair the purposes of this chapter or public interest.

The granting of this Variance will not be of substantial detriment to the adjacent property. The other surrounding parcels are developed with single-family or multi-family developments and will not be adversely affected by the project. The existing single-family home will be removed from the site. The construction of this project will improve the site, and allows its development full potential.

That the granting of this variance will not adversely affect the General Plan of the City or the adopted plan of any government agency.

The granting of this Variance will not affect the General Plan of the City. The proposed residential use is consistent with the General Plan, which designates the site Residential Medium High (RMH). RMH zoning allows a multi-family residential use.

- I. The following shall be accomplished to the satisfaction of the Development Services Director, prior to issuance of building permits, unless otherwise specified:

Planning Division:

1. The Applicant/Representative and Property Owner shall execute this document by making a true copy and signing both this original Notice of Decision and the copy on the lines provided below, said execution indicating that the Applicant/Representative and Property Owner have each read, understood and agreed to the conditions contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document within 30 Days of the effective date herein shall indicate the Applicant/Representative and Property Owner's desire that the project, and

corresponding application for building/grading permits and/or business license, be held in abeyance without approval

Signature of Applicant/Authorized Representative

Date

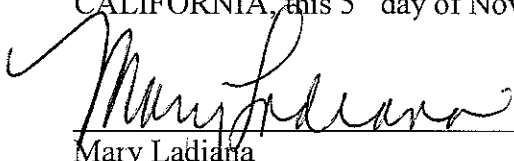
Signature of Property Owner/representative

Date

II. The following on-going conditions shall apply to the Project as long as it relies upon this approval.

2. The Applicant shall maintain the Project in accordance with the approved plans for ZAV-11-04, date stamped on August 17, 2012, which includes a site plan and architectural elevations on file in the Planning Division, the conditions contained herein, and Title 19.
3. Approval of this request shall not waive compliance with all sections of Title 19 of the Municipal Code, and all other applicable City ordinances in effect at the time of building permit issuance.
4. The Property Owner and Applicant shall and do agree to indemnify, protect, defend and hold harmless City, its City Council members, officers, employees and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this Variance and (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated on the Project Site. The Property Owner and Applicant shall acknowledge their agreement to this provision by executing a copy of this Variance Application where indicated above. The Property Owner's and Applicant's compliance with this provision shall be binding on any and all of the Property Owner's and Applicant's successors and assigns.

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,
CALIFORNIA, this 5th day of November 2012.



Mary Ladiana
Zoning Administrator